

Senate Bill 664

By: Senator Pearson of the 51st

AS PASSED

AN ACT

To create the Pickens County Airport Authority; to provide for a short title and legislative findings; to confer powers and impose duties on the authority; to provide for the membership and the appointment of members of the authority and their terms of office, qualifications, duties, powers, and compensation; to provide for vacancies, organization, meetings, and expenses; to prohibit authority employees and members from having certain interests; to provide for definitions; to provide for revenue bonds and their form, signatures thereon, negotiability, sale, and use of proceeds from such sales; to provide for interim documents and for lost or mutilated documents; to provide for conditions for issuance; to prohibit the pledge of credit for the payment of bonds; to provide for trust indentures and a sinking fund; to provide for payment of bond proceeds; to provide for bondholder remedies and protection; to provide for refunding bonds; to provide for bond validation; to provide for venue and jurisdiction; to provide for trust funds; to provide for authority purpose; to provide for charges; to provide for rules and regulations; to provide for tort immunity; to provide for tax exemptions; to provide for supplemental powers; to provide for effect on other governments; to provide for liberal construction; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Short title.

This Act shall be known and may be cited as the "Pickens County Airport Authority Act."

SECTION 2.

Legislative findings.

The General Assembly determines and finds that there is present and projected growth in commercial and private air traffic in the Pickens County area. There is the need for adequate airport safety and efficiency to serve the air transportation needs of Pickens County, the need to eliminate airport hazards, and the need to raise capital for the establishment, operation, and maintenance of present and future airports. The General Assembly further determines and finds that the establishment of an authority is necessary and essential to ensure the welfare, safety, and convenience of citizens of the region and the entire state to ensure the proper economic development of the region and the entire state.

SECTION 3.

Pickens County Airport Authority.

- (a) There is created a body corporate and politic, to be known as the Pickens County Airport Authority which shall be deemed to be a political subdivision of the State of Georgia and a public corporation and by that name, style, and title said body may contract and be contracted with, sue and be sued, implead and be impleaded, and bring and defend actions in all courts.
- (b) The authority shall consist of seven members who shall be residents of Pickens County. Two of the members shall be appointed by the governing authority of Pickens County for terms of office for four years each. Two of the members shall be appointed by the Pickens County Development Authority for terms of office for four years each. Three of the members shall be appointed by the governing authority of Pickens County for two-year terms of office. After the first term expires, members of the authority shall serve the terms specified until their respective successors are appointed and qualified. Each of the members shall be appointed for four years. Any member of the authority may be selected and appointed to succeed himself or herself. After such appointment, the members of such authority shall enter upon their duties. At least three members of the authority shall at all times be pilots fully licensed by the Federal Aviation Agency with a minimum third class medical or as required for their licenses and shall also be legally current per Federal Aviation Agency regulations as required by their respective licenses and ratings. At least one member shall be a Pickens County business owner who in a normal course of his or her business uses an aircraft that is based at the Pickens County Airport. At least one member will be a

citizen at large of Pickens County. Any vacancy on the authority shall be filled in the same manner as was the original appointment of the member whose term of membership resulted in such vacancy and the person so selected and appointed shall serve for the remainder of the unexpired term. The members of the authority shall be reimbursed for all actual expenses incurred in the performance of their duties out of funds of the authority. The authority shall make rules and regulations for its own government. The authority shall have perpetual existence.

(c) The commissioner and selected members of the county staff may serve as ex officio members of the authority; provided, however, that ex officio members shall not have voting rights.

(d) To be eligible for appointment as a member of the authority, a person shall be at least 21 years of age and have been a resident of Pickens County for at least one year prior to the date of such person's appointment and shall not have been convicted of a felony. Each appointee shall have demonstrated an interest in the positive economic development of the county.

(e) The members of the authority shall in April of each year elect one of their number as chairperson. Also, the members of the authority shall elect one of their number as vice chairperson, shall also elect one of their number as secretary, and may also elect one of their number as treasurer. Each of such officers shall serve for a period of one year and until their successors are duly elected and qualified. The chairperson of the authority shall be entitled to vote upon any issue, motion, or resolution.

(f) A majority of the members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of the quorum to exercise all of the rights and perform all of the duties of the authority.

(g) A vacancy on the authority shall exist in the office of any member of the authority who is convicted of a felony or who enters a plea of nolo contendere thereto; who is convicted of a crime involving moral turpitude or who enters a plea of nolo contendere thereto; who moves such person's residence from the county; who is convicted of any act of misfeasance, malfeasance, or nonfeasance of such person's duties as a member of the authority; or who fails to attend any regular or special meeting of the authority for a period of three months without an excuse approved by a resolution of the authority.

(h) All meetings of the authority, regular or special, shall be open to the public. The authority may hold public hearings on its own initiative or at the request of residents of Pickens County or residents of any area affected by the actions of the authority. The

authority may go into executive session to discuss matters of personnel, real estate acquisition or disposal, and litigation. No votes may be taken during an executive session.

SECTION 4.

Definitions.

(a) As used in this Act, the term:

(1) "Airport" means any area of land or structure which is or has been used or which the authority may plan to use for the landing and taking off of commercial, private, and military aircraft, including helicopters; all buildings, equipment, facilities, or other property and improvements of any kind or nature located within the bounds of any such land area or structure which are or have been used or which the authority may plan to use for terminal facilities; all facilities of any type for the accommodation of passengers, maintenance, cargo, servicing, and operation of aircraft, business offices and facilities of private businesses and governmental agencies, and the parking of automobiles; and all other activities which are or have been carried on or which may be necessary or convenient in conjunction with the landing and taking off of commercial, private, and military aircraft including all land originally acquired by Pickens County for the establishment of a county airport, and any land to be deeded to the City of Jasper or Pickens County for airport use, including, without limitation, aviation easements, and other real or personal property.

(2) "Authority" means the Pickens County Airport Authority created by this Act.

(3) "Cost of the project" means and embraces the cost of construction; the cost of all lands, properties, rights, easements, and franchises acquired; the cost of all machinery and equipment; financing charges, interest prior to and during construction and for one year after completion of construction; the cost of engineering, architectural, fiscal agents, and legal expenses, and of plans and specifications, and other expenses necessary or incident to determining the feasibility or practicability of the project, administrative expenses, and such other expenses as may be necessary or incident to the financing authorized in this Act; the cost of the acquisition or construction of any project; and the cost of placing any project in operation. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the cost of the project and may be paid or reimbursed as such out of the proceeds of revenue bonds issued under the provisions of this Act for such project.

(4) "Project" shall be deemed to mean and include the acquisition, construction, equipping, maintenance, and operation of an airport and the usual facilities related thereto.

(5) "Revenue bonds" and "bonds" mean revenue bonds as defined and provided for in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law," and such type of obligations may be issued by the authority as authorized under said Revenue Bond Law and any amendments thereto and, in addition, shall also mean obligations of the authority, the issuance of which are hereinafter specifically provided for in this Act.

(b) Any project shall be deemed "self-liquidating" if, in the judgment of the authority, the revenues and earnings to be derived by the authority therefrom and all facilities used in connection therewith will be sufficient to pay the costs of operating, maintaining, repairing, improving, and extending the project and to pay the principal of and interest on the revenue bonds which may be issued to finance, in whole or in part, the cost of such project or projects.

SECTION 5.

Powers.

The authority shall have the power:

- (1) To have a seal and alter the same at its pleasure;
- (2) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and personal property of every kind and character for its purposes and to plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, and lease all airports which shall come under the control of the authority under the provisions of this Act or which it may acquire or plan to acquire; to regulate, protect, and police such airports and all related activities and facilities; to enter into any contracts, leases, or other agreements, promulgate any orders, set any tolls, fees, or other charges for the use of the property or services of the authority and collect and use same as necessary to operate the airports under control of the authority; and to accomplish any purposes of this Act and make any purchases or sales necessary for such purposes; except that the authority may not acquire any airport of any county, municipality, or combination thereof unless such county, municipality, or both agree to pay to the authority, so long as it operates such airport, at least the amount of airport operating expenses funded by taxes, fees, and assessments of such county, municipality, or combination thereof prior to such acquisition. Nothing in

this paragraph shall give the authority the power of eminent domain and the authority shall not condemn property in order to pursue its lawful purposes;

(3) To appoint, select, and employ officers, agents, and employees, including engineering, architectural, and construction experts, fiscal agents, and attorneys, and to fix their respective compensations and terms of service;

(4) To make contracts and leases and to execute all instruments necessary or convenient, including contracts for construction of projects and leases of projects or contracts with respect to the use of the projects which it causes to be constructed, erected, or acquired. Any and all persons, firms, and corporations and any and all political subdivisions, departments, institutions, or agencies of the state are authorized to enter into contracts, leases, or agreements with the authority upon such terms and for such purposes as they deem advisable; and, without limiting the generality of the foregoing, authority is specifically granted to municipal corporations, counties, and other political subdivisions and to the authority to enter into contracts, lease agreements, or other undertakings with each other relating to projects of the authority for a term not exceeding 50 years. Likewise, without limiting the generality of the above and foregoing, the same authority above granted to municipal corporations, counties, political subdivisions, and to the authority relative to entering into contracts, lease agreements, or other undertakings is authorized between the authority and private corporations, both inside and outside this state, and between the authority and public bodies, including counties and cities outside this state;

(5) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, operate, and manage projects, as defined in this Act, the cost of any such project to be paid in whole or in part from the proceeds of revenue bonds of the authority or from any grant or contribution from the United States of America or any agency or instrumentality thereof or from the State of Georgia or any agency or instrumentality thereof;

(6) To accept loans and grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof upon such terms and conditions as the United States of America or such agency or instrumentality may require;

(7) To accept loans and grants of money or materials or property of any kind from the State of Georgia or any agency or instrumentality or political subdivision thereof upon such terms and conditions as the State of Georgia or such agency or instrumentality or political subdivision may require;

- (8) To borrow money for any of its corporate purposes and to issue negotiable revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof;
- (9) To exercise any power usually possessed by private corporations performing similar functions, including the power to make short-term loans and approve, execute, and deliver appropriate evidence of such indebtedness, provided no such power is in conflict with the Constitution or general laws of this state; and
- (10) To do all things necessary or convenient to carry out the powers expressly given in this Act.

SECTION 6.

Revenue bonds.

The authority, or any authority or body which has or which may in the future succeed to the powers, duties, and liabilities vested in the authority created by this Act, is authorized to provide by resolution for the issuance of negotiable revenue bonds of the authority for the purpose of paying all or part of the cost as herein defined of any one or more projects. The principal of and interest on such revenue bonds shall be payable solely from the special fund provided in this Act for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates per annum, be payable at such time or times, shall mature at such time or times not exceeding 50 years from their date or dates, shall be payable in such medium of payment as to both principal and interest as may be determined by the authority, and may be redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority in the resolution for the issuance of bonds.

SECTION 7.

Revenue bonds; form; denomination; registration; place of payment.

The authority shall determine the form of the bonds, including any interest coupons to be attached thereon, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereon, which may be at any bank or trust company inside or outside the state. The bonds may be issued in coupon or registered form,

or both, as the authority may determine, and provision may be made for the registration of any coupon bond as to principal alone and also as to both principal and interest.

SECTION 8.

Revenue bonds; signatures; seal.

In case any officer whose signature shall appear on any bonds or whose facsimile signature shall appear on any coupon shall cease to be such officer before the delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. All such bonds shall be signed by the chairperson of the authority and the official seal of the authority shall be affixed thereto and attested by the secretary of the authority and any coupons attached thereto shall bear the facsimile signatures of the chairperson and the secretary of the authority. Any coupon may bear the facsimile signatures of such persons and any bond may be signed, sealed, and attested on behalf of the authority by such persons as at the actual time of the execution of such bonds shall be duly authorized or hold the proper office, although at the date of such bonds such person may not have been so authorized or shall not have held such office.

SECTION 9.

Revenue bonds; negotiability; exemption from taxation.

All revenue bonds issued under the provisions of this Act shall have and are declared to have all the qualities and incidents of negotiable instruments under the laws of this state. Such bonds, their transfer, and the income there from shall be exempt from all taxation within this state.

SECTION 10.

Revenue bonds; sale; price; proceeds.

The authority may sell such bonds in such manner and for such a price as it may determine to be for the best interest of the authority. The proceeds derived from the sale of such bonds shall be used solely for the purpose or purposes provided in the resolutions and proceedings authorizing the issuance of such bonds.

SECTION 11.

Revenue bonds; interim receipts; certificates; temporary bonds.

Prior to the preparation of any definitive bonds, the authority may, under like restrictions, issue interim receipts, interim certificates, or temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter.

SECTION 12.

Revenue bonds; replacement of lost or mutilated bonds.

The authority may provide for the replacement of any bonds or coupons which shall become mutilated or be destroyed or lost.

SECTION 13.

Revenue bonds; conditions precedent to issuance.

Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, and filings which are specified or required by this Act. In the discretion of the authority, revenue bonds of a single issue may be issued for the purpose of any particular project. Any resolution providing for the issuance of revenue bonds under the provisions of this Act shall become effective immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular or special meeting of the authority by a majority of its members.

SECTION 14.

Credit not pledged.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of Pickens County nor a pledge of the faith and credit of said county; but such bonds shall be payable solely from the fund hereinafter provided for and the issuance of such revenue bonds shall not directly, indirectly, or contingently obligate said county, nor individual members of the authority, to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. All such bonds shall contain recitals on their face covering substantially the foregoing provisions of this section.

SECTION 15.

Trust indenture as security.

In the discretion of the authority, any issuance of such revenue bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company inside or outside the state. Such trust indenture may pledge or assign fees, tolls, revenues, and earnings providing for the issuance of revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of the law, including covenants setting forth the duties of the authority in relation to the acquisition of property, the construction of the project, the maintenance, operation, repair, and insuring of the project, and the custody, safeguarding, and application of all moneys, and may also provide that any project shall be constructed and paid for under the supervision and approval of consulting engineers or architects employed or designated by the authority, and satisfactory to the original purchasers of the bonds issued therefor, and may also require that the security given by contractors and by any depository of the proceeds of the bonds or revenues or other moneys be satisfactory to such purchasers, and may also contain provisions concerning the conditions, if any, upon which additional revenue bonds may be issued. It shall be lawful for any bank or trust company incorporated under the laws of this state to act as such depository and to furnish such indemnifying bonds or pledge such securities as may be required by the authority. Such indenture may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. In addition to the foregoing, such trust indenture may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust indentures may be treated as a part of the cost of maintenance, operation, and repair of the project affected by such indenture.

SECTION 16.

To whom proceeds of bonds shall be paid.

In the resolution providing for the issuance of revenue bonds or in the trust indenture, the authority shall provide for the payment of the proceeds of the sale of the bonds to any officer or person who, or any agency, bank, or trust company which, shall act as trustee of such funds and shall hold and apply the same to the purposes of this Act, subject to such regulations as this Act and such resolution or trust indenture may provide.

SECTION 17.

Sinking fund.

The revenues, fees, tolls, and earnings derived from any particular project or projects, regardless of whether or not such fees, earnings, and revenues were produced by a particular project for which bonds have been issued, unless otherwise pledged and allocated, may be pledged and allocated by the authority to the payment of the principal and interest on revenue bonds of the authority as the resolution authorizing the issuance of the bonds or the trust instrument may provide. Such funds so pledged from whatever source received, including funds received from one or more or all sources, shall be set aside at regular intervals as may be provided in the resolution or trust indenture into a sinking fund which shall be pledged to and charged with the payment of:

- (1) The interest upon such revenue bonds as interest shall fall due;
- (2) The principal of the bonds as the same shall fall due;
- (3) The necessary charges of paying agents for paying principal and interest and other investment charges;
- (4) Any premium upon bonds retired by call or purchase as provided in this Act; and
- (5) Any investment fees or charges.

The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust indenture but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds without distinction or priority of one over the other. Subject to the provisions of the resolution authorizing the issuance of the bonds or the trust indenture, any surplus moneys in the sinking fund may be applied to the purchase or redemption of bonds, and any such bonds so purchased or redeemed shall forthwith be canceled and shall not again be issued.

SECTION 18.

Remedies of bondholders.

Any holder of revenue bonds issued under the provisions of this Act or any of the coupons appertaining thereto and the trustee under the trust indenture, if any, except to the extent the rights given in this Act may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of this state or granted under this Act or under such resolution or trust indenture and may enforce and compel performance of all duties required by this Act or by such resolution or trust indenture to be performed by the authority or any officer thereof, including the fixing, charging, and collecting of revenues, fees, tolls, and other charges for the use of the facilities and services furnished.

SECTION 19.

Refunding bonds.

The authority is authorized to provide by resolution for the issuance of bonds of the authority for the purpose of funding or refunding any revenue bonds issued under the provisions of this Act and then outstanding, together with accrued interest thereon and any premium. The issuance of such funding or refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the authority in respect to the same shall be governed by the foregoing provisions of this Act insofar as the same may be applicable.

SECTION 20.

Validation.

Bonds of the authority shall be confirmed and validated in accordance with the procedures of Article 3 of Chapter 82 of Title 36 of the O.C.G.A., known as the "Revenue Bond Law." The petition for validation shall also make party defendant to such action the State of Georgia or any municipality, county, authority, political subdivision, or instrumentality of the State of Georgia which has contracted with the authority for the services and facilities of the project for which bonds are to be issued and sought to be validated, and the state or such municipality, county, authority, political subdivision, or instrumentality shall be required to show cause, if any exists, why such contract or contracts and the terms and conditions thereof

should not be inquired into by the court and the contract or contracts adjudicated as part of the basis for the security for the payment of any such bonds of the authority. The bonds, when validated, and the judgment of the validation shall be final and conclusive with respect to such bonds, and the security for the payment thereof and interest thereon and against the authority issuing the same and the state and any municipality, county, authority, political subdivision, or instrumentality, if a party to the validation proceedings, contracting with the Pickens County Airport Authority.

SECTION 21.

Venue and jurisdiction.

Any action to protect or enforce any rights under the provisions of this Act or any suit or action against such authority shall be brought in the Superior Court of Pickens County, Georgia; and any action pertaining to validation of any bonds issued under the provisions of this Act shall likewise be brought in said court which shall have exclusive, original jurisdiction of such actions.

SECTION 22.

Interest of bondholders protected.

While any of the bonds issued by the authority remain outstanding, the powers, duties, or existence of said authority or its officers, employees, or agents shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such bonds. No other entity, department, agency, or authority will be created which will compete with the authority to such an extent as to affect adversely the interest and rights of the holders of such bonds, nor will the state itself so compete with the authority. The provisions of this Act shall be for the benefit of the authority and holders of any such bonds, and, upon the issuance of bonds, under the provisions hereof, shall constitute a contract with the holders of such bonds.

SECTION 23.

Moneys received considered trust funds.

All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of revenue bonds, as grants or other contributions, or as revenue, income, fees and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Act.

SECTION 24.

Purpose of the authority.

Without limiting the generality of any provision of this Act, the general purpose of the authority is declared to be that of acquiring, constructing, equipping, maintaining, and operating an airport and the usual facilities related thereto, and improving of such facilities, acquiring facilities and parking areas in connection therewith, acquiring the necessary property therefor, both real and personal, and leasing or selling any or all of such facilities, including real property, and doing any things deemed by the authority to be necessary, convenient, or desirable for and incident to the efficient and proper development and operation of such types of undertakings.

SECTION 25.

Rates, charges, and revenues; use.

The authority is authorized to prescribe and fix rates, to revise the same from time to time, and to collect tolls and charges for the services, facilities, and commodities furnished and, in anticipation of the collection of the revenues of such undertaking or project, to issue revenue bonds as herein provided to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment, or extension of any project and to pledge to the punctual payment of said bonds and interest thereon, all or any part of the revenues of such undertaking or project, including the revenues of improvements, betterments, or extensions thereto thereafter made.

SECTION 26.

Rules and regulations for operation of projects.

It shall be the duty of the authority to prescribe rules and regulations for the operation of the project or projects constructed or acquired under the provisions of this Act.

SECTION 27.

Tort immunity.

The authority shall have the same immunity and exemption from liability for torts and negligence as Pickens County; and the officers, agents, and employees of the authority, when in the performance of the work of the authority, shall have the same immunity and exemption from liability for torts and negligence as the officers, agents, and employees of Pickens County as when in the performance of their public duties or work for the county.

SECTION 28.

Tax exemption.

It is found, determined, and declared that the creation of the authority and the carrying out of its corporate purpose is in all respects for the benefit of the people of this state and that the authority is an institution of purely public charity and will be performing an essential governmental function in the exercise of the power conferred upon it by this Act, and this state covenants with the holders of the bonds that the authority shall not be required to pay any taxes or assessments upon any of the property acquired or leased by it or under its jurisdiction, control, possession, or supervision or upon its activities in the operation or maintenance of the projects erected by it or any rates, fees, tolls, or other charges for the use of such projects or other income received by the authority, and that the bonds of the authority, their transfer, and the income therefrom shall at all times be exempt from taxation within this state. The exemption from taxation provided for in this section shall not extend to tenants or lessees of the authority and shall not include exemptions from sales and use taxes on property purchased by the authority or for use by the authority.

SECTION 29.

Powers declared supplemental and additional.

The foregoing sections of this Act shall be deemed to provide an additional and alternative method for the doing of the things authorized by this Act, shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing. This Act shall not and does not in any way take from Pickens County or any municipality located therein or any adjoining county the authority to work, operate, and maintain projects or to issue revenue bonds as is provided by Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law."

SECTION 30.

Liberal construction of this Act.

This Act being for the welfare of various political subdivisions of the state and its inhabitants shall be liberally construed to effect the purposes of this Act.

SECTION 31.

Effective date.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 32.

Repealer.

All laws and parts of laws in conflict with this Act are repealed.